

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of Application of	)	
	)	
THE FLIGHT DEPARTMENT INC.	)	FCC File No. 0001288982
	)	
For New Aeronautical Advisory Station at Rifle,	)	
Colorado	)	

**ORDER**

**Adopted: November 12, 2003**

**Released: November 14, 2003**

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us an application filed by The Flight Department Inc. (The Flight Department) for a new aeronautical advisory station (unicom)<sup>1</sup> at the Garfield County Airport in Rifle, Colorado.<sup>2</sup> For the reasons stated below, we dismiss the application pursuant to Section 1.934(d)(2) of the Commission's Rules.<sup>3</sup>

2. *Background.* Currently, the Garfield County Airport Authority (Airport Authority) is licensed for a unicom at the Garfield County Airport under Call Sign WIT7. Section 87.215(b) of the Commission's Rules provides that "[o]nly one unicom will be authorized to operate at an airport which does not have a control tower, RCO [control tower remote communications outlet] or FAA flight service station."<sup>4</sup> In an attachment to its application, The Flight Department contends that the one unicom per airport restriction does not apply to the Garfield County Airport because the airport has an RCO,<sup>5</sup> and thus is permitted to have more than one unicom.<sup>6</sup> The Flight Department also alleges that the Airport Authority has violated several of the Commission's Rules governing unicom operations.<sup>7</sup>

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<sup>1</sup> Unicom is used to provide safety-related and other information to aircraft, primarily general aviation aircraft. Unicom transmissions are limited to the necessities of safe and expeditious operation of aircraft, including runway conditions, types of fuel available, wind conditions, weather information, dispatching, and other necessary safety information. However, unicom may also transmit, on a secondary basis, information pertaining to the efficient portal-to-portal transit of an aircraft, such as information concerning available ground transportation, food, and lodging. 47 C.F.R. § 87.213.

<sup>2</sup> FCC File No. 0001288982 (filed April 28, 2003).

<sup>3</sup> 47 C.F.R. § 1.934(d)(2).

<sup>4</sup> 47 C.F.R. § 87.215(b).

<sup>5</sup> An RCO is an unmanned aeronautical radio station at a small uncontrolled airport located near a large airport with a control tower (a controlled airport). The RCO is connected via landlines to the control tower (or other FAA control facility). Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Services, *Notice of Proposed Rule Making*, WT Docket No. 01-289, 16 FCC Rcd 19005, 19022-23 n.99 (2001).

<sup>6</sup> Attachment at 1.

<sup>7</sup> See *id.* Specifically, The Flight Department contends that the Airport Authority has contracted with a company called Corporate Aircraft Services to administer and operate the unicom, and that the company is operating the  
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3. *Discussion.* Contrary to The Flight Department's contention, the one unicom per airport limitation does apply to the Garfield County Airport. The limitation applies, notwithstanding the existence of the RCO at the airport, because the unicom frequency 122.8 MHz is also the published common traffic advisory frequency (CTAF) at the airport.<sup>8</sup> The purpose of Section 87.215(b) is to prevent the licensing of more than one unicom at an uncontrolled airport in the interest of public safety.<sup>9</sup> Accordingly, we have interpreted the rule's statement that the limitation does not apply to airports that have a control tower, FAA flight service station (FSS), or RCO to mean only that the limitation does not apply to airports with a control tower, FSS, or RCO that effectively controls traffic at that airport.<sup>10</sup> Accordingly, multiple unicom licensees are permitted only at those airports where there is no need for a specified CTAF or the air traffic control facility frequency serves as the CTAF.<sup>11</sup> At airports with a unicom frequency as the published CTAF, such as the Garfield County Airport, the one unicom per airport limitation applies, even if the airport has an FSS or RCO.<sup>12</sup>

4. Because the Garfield County Airport is limited to having just one unicom, the continuing licensed operation of unicom Station WIT7 forecloses us from granting The Flight Department's application. We therefore must dismiss the application.<sup>13</sup> Although The Flight Department also argues that the Airport Authority is operating Station WIT7 in violation of several of the Commission's rules, its allegations do not affect the outcome here.<sup>14</sup> However, we will refer the matter to the Commission's Enforcement Bureau to take whatever actions it believes warranted.

5. *Conclusion.* The captioned application of The Flight Department seeks a license for what would be the second unicom at an airport that is subject to the one unicom limitation of Section 87.215(b)

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unicom in a manner that contravenes Sections 87.213(a) (requiring that a unicom provide service to any aircraft station upon request, without discrimination, and provide impartial information concerning available ground services), 87.107(b) (specifying how land and fixed stations in the Aviation Radio Service are to identify themselves), and 87.215(d) (requiring that applicants seeking renewal of a unicom license notify in writing, *inter alia*, all aviation service organizations located at the airport). 47 C.F.R. §§ 87.213(a), 87.107(b), 87.215(d). The Flight Department also contends that the licensee's control point was relocated, and a new antenna structure erected, without prior notification to the Commission.

<sup>8</sup> See Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 01-289, FCC 03-238, at n.211 (rel. Oct. 16, 2003) (*Part 87 R&O*); see also Resort Aviation Services, Inc., *Hearing Designation Order*, WT Docket No. 02-179, 17 FCC Rcd 12816, 12816 n.2 (WTB PSPWD 2002) (citing Reorganization and Revision of Part 87 of the Rules Governing the Aviation Services, *Notice of Proposed Rule Making*, PR Docket No. 87-214, 2 FCC Rcd 4069, 4070 ¶¶ 11-12 (1987)).

<sup>9</sup> See *Part 87 R&O*, FCC 03-238, at n.211.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Even if we determined that multiple unicoms could be licensed at Garfield County Airport, we could not grant the instant application by The Flight Department because it is defective. The application lists an invalid radio service code and invalid station class code for unicoms, and does not provide required antenna or frequency data. As a consequence, the application is subject to dismissal as defective. See 47 C.F.R. § 1.934(d)(1).

<sup>14</sup> That is, even assuming there were no defects in The Flight Department's application, the application could not be granted simply because it has made allegations of rule violations against the incumbent. In the absence of a finding that the incumbent licensee had abandoned the unicom or ceased operation, the one unicom per airport limitation would remain a bar to the application by The Flight Department unless and until the incumbent license was formally revoked, cancelled, or otherwise terminated. See 47 C.F.R. § 87.215(c).

of the Commission's Rules. It is therefore dismissed pursuant to Sections 1.934(d) and 87.215(b) of the Commission's Rules.

6. Accordingly, IT IS ORDERED pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Sections 1.934(d) and 87.215(b) of the Commission's Rules, 47 C.F.R. §§ 1.934(d), 87.215(b), that the captioned application filed by The Flight Department Inc. on April 28, 2003 SHALL BE DISMISSED.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
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